

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 170 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KALU GENAJI MANDORA

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR JANI AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/06/98

ORAL JUDGEMENT

The petitioner who is detained by the order dated 9.12.1997 passed by the Police Commissioner, Ahmedabad city under sec. 3(1) of the Gujarat Prevention of Anti Social Activities Act, 1985, has challenged the order of detention in this petition under Article 226 of the Constitution of India.

IN the grounds of detention supplied to the

petitioner on the even date, the detaining authority has placed reliance on five theft cases registered against the petitioner by different police stations. Over and above these theft cases, the detaining authority has also placed reliance on the statement of two witnesses for the incidents dated 6.11.1997 and 29.10.1997, wherein the petitioner gone with his men to the house of the witnesses and demanded amount by depositing the stolen articles. As the witnesses have refused to part with the above and keeping the stolen articles, the witnesses were dragged from their houses and were beaten on the public road. The crowd of people was gathered. Thereafter, the petitioner took out the knife and rushed towards the crowd, with the result, people started running helter and skelter and regn of terror was created. Considering this aspect, the detaining authority was of the view that the petitioner is a dangerous person and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order has passed the order of detention.

Having heard the learned advocates at length, I am of the view that the petition is required to be allowed only on the first contention advanced on behalf of the petitioner. It was contended on behalf of the petitioner that even if the allegations made against the petitioner is accepted on its face value, the same at the most can be treated as the breach of law and order but it can never be termed as the breach of public order. I have gone through the statements of the witnesses. Considering the same, I am clearly of the view that these are the cases of individuals, and the public in general is not at all concerned about the same. Assuming that the same is true, in that event, it is too much to say that the acts of the petitioner amounts to breach of the public order. IN view of this, the satisfaction arrived at by the detaining authority branding the petitioner as dangerous person is not genuine and, therefore, the order of detention is vitiates.

IN the result, the petition is allowed. The detention order dated 9.12.1997 is set aside. The petitioner is ordered to be released forthwith if he is not required for any other lawful reason. Rule is made absolute.
